

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 09.03.2021
CORAM
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.4747 of 2021

Jai @ Jaikumar

.. Petitioner

Vs.

State Rep. by its
The Inspector of Police,
Adambakkam Police Station,
Chennai.
(Crime No.2273 of 2016)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the learned Principal Sessions Judge, Chengalpattu in Crl.M.P.No.3129 of 2020 dated 29.01.2021.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

O R D E R

On consent given by either side, the main petition itself its taken up for final hearing.

2.The subject matter of challenge in this petition is the order passed by the Court below canceling the bail granted in favour of the petitioner. The main ground that has been urged by the learned counsel for the petitioner is that admittedly the petitioner was in judicial custody in some other case and the Court below had cancelled the bail in the absence of the petitioner and even without giving an opportunity to the petitioner to engage a counsel.

3.The learned Additional Public Prosecutor appearing on behalf of the respondent submitted that the petitioner had engaged a counsel right through the proceedings when he had filed bail applications and when it came to cancellation of bail, the petitioner has taken a different stand as if he had no counsel to appear on his behalf. The learned Additional Public Prosecutor vehemently opposed the petition on the ground that the petitioner is repeatedly involved in various offences and he

has misused the liberty granted to him and the Court below was perfectly right in canceling the bail granted in favour of the petitioner.

4.This Court has carefully considered the submissions made on either side and also the materials available on record.

5.Even when the prosecution filed an application for cancellation of bail, it is specifically stated in Paragraph No.6 of the application that the petitioner has been arrested and remanded to judicial custody on 18.07.2020 and he is in judicial custody at Puzhal Central Prison. The order passed by the Court below gave an indication as if the petitioner has been served notice in the cancellation of bail application.

6.Even if notice is served on the petitioner in the cancellation of bail application, since the petitioner was in judicial custody in some other case, he was not able to be present before the Court below at the time when the application was heard. It would have been fit and proper if the Court below had at least utilized the services of a counsel from the legal aid to defend the petitioner. The same has not been done in this case and the Court below has proceeded to allow the application on the ground that the petitioner has not turned up before the Court and has not disputed the allegations made against him in the cancellation of bail application.

7.In the considered view of this Court, the order passed by the Court below requires interference. The matter is again remanded back to the file of the Principal District and Sessions Judge, Chengalpattu. The Court below shall issue notice to the petitioner indicating the date of hearing of the application and if in case the petitioner is inside jail in some other case, the Court below shall utilize the services of a counsel from legal aid who can defend the case of the petitioner after taking instructions from the petitioner. The Court below shall pass final orders after giving opportunity to the petitioner, within a period of four weeks from the date of receipt of copy of this order.

8.This criminal original petition is disposed of with the above directions.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jv

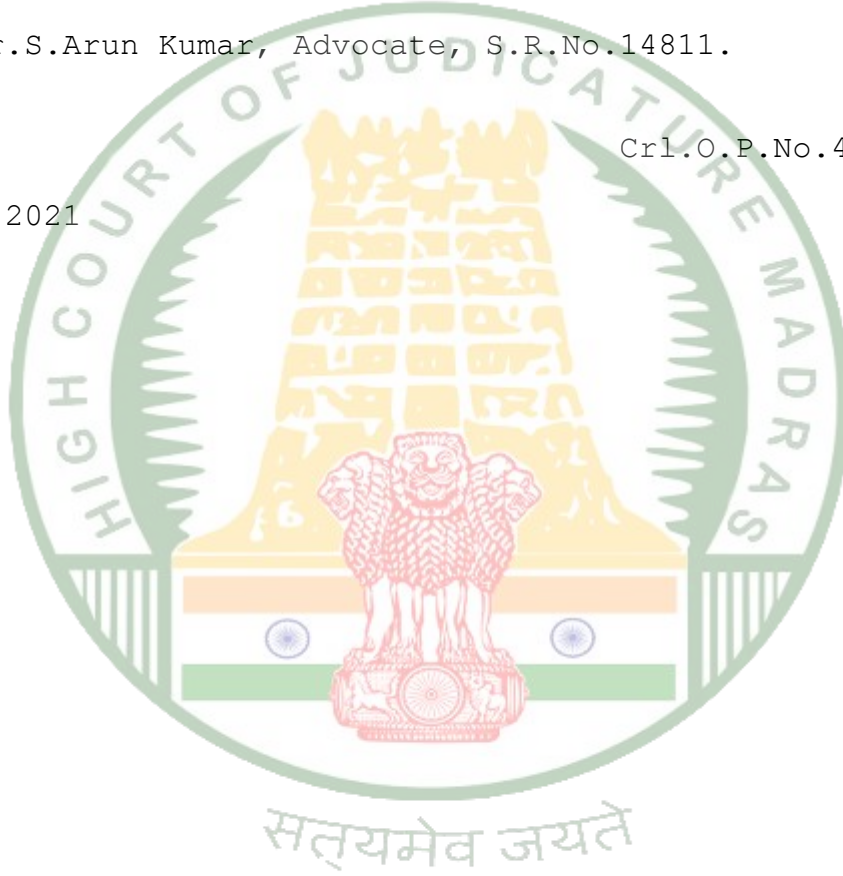
To

1. The Principal District and Sessions Judge,
Chengalpattu.
2. The Inspector of Police,
Adambakkam Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.14811.

Crl.O.P.No.4747 of 2021

GPL (CO)
CSR 08.04.2021



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